LOCAL GOVERNMENT SERVICES

Municipal Services Branch

REVIEW OF THE CROWSNEST PASS REGULATION (AR 378/94)

CONSULTATION DOCUMENT AND QUESTIONNAIRE

Please review and return your comments by June 14, 2002

Return Comments to:
Alberta Municipal Affairs
Municipal Services Branch
Legislative Projects Unit
17th Floor - 10155 102 Street
Edmonton AB T5J 4L4
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Alberta
MUNICIPAL AFFAIRS

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Commerce Place
10155 - 102 Street
Edmonton, Alberta
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In Replying Please Quote:

April 2002

Dear Stakeholders:

As part of its regulatory review process, the department is reviewing the Crowsnest Pass Regulation (Alberta Regulation 378/94). The main purpose of this review is to ensure the continued relevance of the regulation.

This regulation outlines special provisions that apply specifically to the Municipality of Crowsnest Pass respecting grant eligibility, the ability to pass bylaws for the prevention and control of fires, and land boundary adjustment schemes.

This consultation document summarizes the suggested changes for each section. At the back of the document are comments sheets that can be mailed or faxed. The appendix contains the existing regulation for reference purposes.

Please submit your comments on the suggested changes as well as other suggested changes by **June 14, 2002,** to:

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Legislative Projects Unit
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Thank you for your participation in the regulatory review process.

Yours truly,

Brian Quickfall
Acting Assistant Deputy Minister

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Review of the Crowsnest Pass Regulation
Consultation Paper and Questionnaire

INTRODUCTION

The review of the Crowsnest Pass Regulation [Alberta Regulation (AR) 378/94], is part of the department's commitment to ensure that regulations are current and relevant, and those that are not are either updated or repealed.

To assist in the review of the Crowsnest Pass Regulation (the Regulation), this consultation paper is divided into the following sections:

- Background
- Issues and Analysis
- Observations/Findings
- Proposal
- Comments
- Appendix (Copy of the Regulation)

BACKGROUND

Effective January 1, 1979, the Crowsnest Pass Municipal Unification Act consolidated the towns of Blairmore and Coleman, the villages of Bellevue and Frank, and several small hamlets such as Hillcrest Mines into one municipal government (the Municipality of Crowsnest Pass).

The Municipality of Crowsnest Pass comprises an area of approximately 19,427 hectares with a population of 6,356 (1996 census). The former urban municipalities and hamlets are primarily residential areas, but their historic names are still used by residents. The municipality was granted Town status after the amalgamation.

The Crowsnest Pass Municipal Unification Act included special provisions regarding utilities, recreation, fire protection and property boundary adjustments.

In the early 1990s, a provincial government initiative streamlined and consolidated legislation in an effort to reduce duplication and redundancy. As part of that initiative, in 1994 a total of 21 different Acts (including the Crowsnest Pass Municipal Unification Act) were repealed or consolidated into the new Municipal Government Act (MGA).

On January 1, 1995, the new MGA came into force. With the exception of the Special Areas, all municipalities are governed by the MGA and the regulations set out under that Act.

Section 615 of the MGA was added to provide authority for the Minister of Municipal Affairs to make regulations that apply to Crowsnest Pass respecting the following matters:

- eligibility to receive grants under the MGA or other enactments, including special provisions for the calculation of grants;
- authority to pass bylaws and enter into agreements for the prevention and control of fires under the Forest and Prairie Protection Act; and
- extending a special scheme to adjust property boundaries to accommodate the location of existing houses, garages, driveways, fences, etc.

The Crowsnest Pass Regulation became effective at the same time as the MGA. The purpose of the Crowsnest Pass Regulation was not to maintain all the provisions of the Crowsnest Pass Municipal Unification Act. Instead, it was to continue certain transitional provisions that were still needed.

ISSUES AND ANALYSIS

There are the three major provisions in AR 378/94 that need to be addressed:

1. Calculation of Grants

This Regulation provides for an unusual policy of regarding grant benefits and was extended due to the urban and rural nature of the municipality. The Regulation allows for the following two methods for calculating a grant:

(a) treating the municipality as a single entity, equivalent to a town; or

(b) treating the municipality as a regional jurisdiction encompassing two or more urban areas, two or more rural areas, or both urban and rural areas.

The methods of calculating grant funding apply to most per capita grants provided under any enactment. The exception, however, is for the libraries' grants provided under the Community Development Grants Regulation where the municipality is treated like a town (single entity) for grant calculation purposes.

The Crowsnest Pass Regulation has the express purpose of providing for larger grant amounts under the Transportation and Utilities Grants Regulation (AR 355/86). However, section 2(4) of AR 378/94 exempts grant programs provided only to counties or municipal districts unless it is for hamlets that were formerly in the improvement district area.

These special grant provisions are not enjoyed by any other municipality, but the actual financial impact appears modest. Nevertheless, given some of the financial issues, community sensitivities, and the physical make-up of the municipality, the special grant calculation provisions should probably be extended at this time and re-evaluated at a later date against overall grant program criteria.

2. *Application of Fire Bylaws*

The Regulation allows the bylaws of the Municipality of Crowsnest Pass regarding fire protection and control to apply to:

(a) the areas of the urban municipalities as they existed immediately before January 1, 1979 (when the Crowsnest Pass Unification Act took effect); and

(b) areas of the Improvement District area before January 1, 1979, under which agreements were made with the then Minister of Environmental Protection or urban municipalities to provide fire fighting services.

All other areas not falling into one of the above two categories are under the authority of the Forest and Prairie Protection Act.

Section 7 of the MGA authorizes a council to pass bylaws for municipal purposes respecting "the safety, health and welfare of people and the protection of people and property." Under this section the municipality has the authority to pass a bylaw specifying the type and provision of fire protection, including the designation of different fire protection areas such as the above noted categories.

The natural person powers afforded municipalities under section 6 of the MGA allow the municipality to enter into agreements for the provision of services such as fire prevention and control. The combination of sections 6 and 7 of the MGA make these provisions of the Regulation no longer necessary.

3. *Authorization of a Land Boundary Adjustment Scheme*

This provision allows the council of the Municipality of Crowsnest Pass to authorize land boundary adjustments to make property boundaries coincide with the lines of occupation (fences, driveways, etc.).

The general replotting and land boundary adjustment provisions were not carried forward from previous legislation. Therefore, no mechanisms for replotting exist for any other municipality in Alberta.

Due to the nature of Crowsnest Pass, the provision to make land boundary adjustments to align with lines of occupation should be extended. The municipality has noted that this still remains as a concern.

OBSERVATIONS/FINDINGS

1. The Municipality of Crowsnest Pass has been amalgamated for 20 years and has sufficient economic diversification and population to function as other municipalities.

2. The ability of the municipality to enter into agreements and to pass bylaws respecting the health and safety of the municipality exist in the MGA. Therefore, the provisions under the Regulation for fire prevention/protection are no longer needed.

3. Land boundary adjustment schemes are unique to Crowsnest Pass compared to other municipalities. The provisions under AR 378/94 provided an opportunity to conduct any replotting that was needed. However, this provision should be extended for a limited time to facilitate the finalization of any land boundary adjustment required by use, topography, etc.

PROPOSAL

It is proposed that the Crowsnest Pass Regulation be repealed and re-enacted with the following amendments:

1) **that a sunset date of July 1, 2007, be added in accordance with the directions of the Regulatory Review Secretariat to ensure that the regulation is reviewed in the future for relevancy and necessity, with the option that it may be maintained or amended;**
2) **that the provisions regarding the calculation of grants be continued until the sunset date, at which time they would be reviewed as part of the general review;**
3) **that the provisions for fire prevention and protection be deleted as they are no longer necessary given the provisions of the Municipal Government Act; and**
4) **that the provisions regarding boundary adjustments be continued until December 31, 2003, to allow the municipality to finalize any outstanding boundary adjustments.**

QUESTIONNAIRE

Respondent: _____

Position: _____

Representing: _____

1. It is proposed that a sunset date of July 1, 2007, be added in accordance with the directions of the Regulatory Review Secretariat to ensure that the regulation is reviewed in the future for relevancy and necessity, with the option that it may be maintained or amended. Do you agree with the proposed amendment?

   Yes ____ No ____ No comment _____

   If No, please give your reasons or alternative suggestion.

   _____

   _____

   _____

   _____

2. It is proposed that the provisions regarding the calculation of grants be continued until the sunset date, at which time they would be reviewed as part of the general review. Do you agree with the proposed amendment?

   Yes ____ No ____ No comment _____

   If No, please give your reasons or alternative suggestion.

   _____

   _____

   _____

   _____

3. It is proposed that the provisions for fire prevention and protection be deleted as they are no longer necessary given the provisions of the Municipal Government Act. Do you agree with the proposed amendment?

   Yes ____ No ____ No comment _____

   If No, please give your reasons or alternative suggestion.

   _____

   _____

   _____

4. It is proposed that the provisions regarding boundary adjustments be continued until December 31, 2003, to allow the municipality to finalize any outstanding boundary adjustments. Do you agree with the proposed amendment?

   Yes ___ No ____ No comment _____

   If No, please give your reasons or alternative suggestion.

   _____

   _____

   _____

5. Do you have any other comments regarding the Regulation?

   _____

   _____

   _____

   _____

(no amdt)

ALBERTA REGULATION 378/94

Municipal Government Act
(SA 1994 cM-26.1)

CROWSNEST PASS REGULATION

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Definitions

1 In this Regulation,

(a) "Crowsnest Pass" means The Municipality of Crowsnest Pass;

(b) "improvement district area" means the area of Crowsnest Pass, except the areas of the urban municipalities as those areas existed immediately before January 1, 1979;

(c) "registered owner" means a registered owner as defined in the *Planning Act;*

(d) "urban municipalities" means

(i) The Town of Blairmore,

(ii) The Town of Coleman,

(iii) The Village of Bellevue, and

(iv) The Village of Frank.

Calculation of grants

2(1) If an enactment authorizes the making of a grant to a municipality, the amount of the grant to which Crowsnest Pass is eligible must be calculated on the basis of clause (a) or (b), whichever would result in a larger grant:

(a) by treating Crowsnest Pass as a single urban jurisdiction equivalent to a town;

(b) by treating Crowsnest Pass as a regional jurisdiction encompassing 2 or more urban municipal areas, 2 or more rural municipal areas or both urban and rural municipal areas.

(2) A grant respecting libraries under the *Cultural Grants Regulation* (Alta. Reg. 105/84) must be calculated under subsection (1)(a).

(3) The amount of a grant under the *Transportation and Utilities Grants Regulation* (Alta. Reg. 355/86) must be calculated on the basis of clause (a) or (b), whichever would result in a larger grant:

(a) by calculating the grant under subsection (1);

(b) by treating Crowsnest Pass as a number of separate urban municipal areas each one of which is eligible for assistance in regard to facilities designated for each as if they were separate towns, villages or hamlets.

(4) Crowsnest Pass is not eligible for grants provided only to counties or municipal districts, except that Crowsnest Pass is eligible for assistance calculated for hamlets formerly in the improvement district area and now in Crowsnest Pass.

Fire bylaws

3(1) The bylaws of Crowsnest Pass respecting fires apply only to

(a) the areas of the urban municipalities as they existed immediately before January 1, 1979, and

(b) those portions of the improvement district area that were, immediately before January 1, 1979, the subject of agreements made between the Minister and any of the urban municipalities and under which an urban municipality agreed to provide fire fighting services in a part of the improvement district area.

(2) The *Forest and Prairie Protection Act* applies to the portion of Crowsnest Pass not referred to in subsection (1).

(3) Crowsnest Pass may, under the authority of a bylaw, enter into a fire control agreement with the Minister of Environmental Protection on behalf of the Government with respect to the prevention and control of fires within all or part of the improvement district area.

(4) The agreement operates despite subsections (1) and (2).

Authorizing land boundary adjustment scheme

4(1) The council of Crowsnest Pass may authorize a land boundary adjustment scheme for the purposes of adjusting property boundaries so as to coincide with the lines of occupation.

(2) A land boundary adjustment scheme must be prepared by an Alberta land surveyor and

(a) show the boundaries of each parcel of land affected by the scheme as they are located before adjustment,

(b) show the boundaries of each parcel of land affected by the scheme as they will be located after adjustment, and the location of each registered easement and right of way,

(c) set out the names of the registered owners and of persons having a registered interest in each parcel of land both before and after adjustment,

(d) contain the written consent to the proposed scheme of every registered owner of and of every person having a registered interest in the land affected by the scheme,

(e) if the land boundary adjustment scheme affects the boundaries of a road under the direction, control and management of a Minister, contain the written consent of the Minister, and

(f) set out the amount of compensation, if any, to be paid to the registered owners, and the manner in which the costs of the scheme are to be shared among the registered owners and Crowsnest Pass.

(3) No bylaw is required to close the portion of a road affected by the land boundary adjustment scheme.

(4) The *Planning Act* and the land use bylaw of Crowsnest Pass do not apply to a land boundary adjustment scheme.

Notice of scheme to land titles

5(1) After a land boundary adjustment scheme has been authorized under section 4, the council must submit to the Registrar of Land Titles a certified copy of the resolution or bylaw authorizing the land boundary adjustment scheme and a list of all existing lots included within the land boundary adjustment scheme.

(2) On receipt of the documents referred to in subsection (1), the Registrar of Land Titles must endorse on each certificate of title for land within the scheme a notice of the land boundary adjustment scheme.

(3) After a notice of the land boundary adjustment scheme has been endorsed on a certificate of title, a person who acquires an interest in the land shown on the certificate is not entitled to receive any notice of proceedings as to the land boundary adjustment scheme unless the person files at the municipal office of Crowsnest Pass evidence of registration of the interest and an address to which notices can be mailed.

Survey

6 After a land boundary adjustment scheme has been authorized under section 4, the council must ensure that an Alberta land surveyor

(a) surveys the land within the scheme, and

(b) prepares a plan of subdivision showing the new boundaries for each parcel of land affected by the scheme and the location of all registered easements and rights of way.

Adopting scheme

7 If the council is satisfied with the plan of subdivision prepared under section 6(b), it must adopt the land boundary adjustment scheme.

Effect of adopting scheme

8(1) After a land boundary adjustment scheme has been adopted, the council must submit to the Registrar of Land Titles

(a) the plan of subdivision executed under the seal of Crowsnest Pass,

(b) a certified copy of the resolution or bylaw adopting the land boundary adjustment scheme, and

(c) a certified copy of the land boundary adjustment scheme.

(2) On receipt of the documents referred to in subsection (1), the Registrar of Land Titles must

(a) register them,

(b) cancel the existing certificates of title to the original lots within the land boundary adjustment scheme,

(c) issue new certificates of title to the new lots established by the plan of subdivision,

(d) endorse on the new certificates of title

(i) those easements and rights of way that are shown on the land boundary adjustment scheme as being carried forward to the new certificates of title, and

(ii) those encumbrances, interests and caveats that were endorsed on the certificates of title of the original lots unless the land boundary adjustment scheme shows them as not transferred,

(e) cancel the notice of the land boundary adjustment scheme made under section 5(2), and

(f) make any other endorsements necessary to carry out the intent of the land boundary adjustment scheme.

Coming into force

9 *This Regulation comes into force on January 1, 1995.*